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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/813,222 | Applicant(s) REPKA, MIKKO | |
| | Examiner William Wong | Art Unit 2178 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to the communication filed on July 16, 2007.

- Claims 1-2, 9-14, 20-22 have been amended.
- Claims 23-28 have been added.

Claims 1-28 are pending and have been examined. Previous specification objection with respect to abbreviations has been withdrawn in response to amendment in the specification. Previous claim objections have been withdrawn in response to amendments to the claims.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-28 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of copending Application No. 11/052,420 in view of Fitzmaurice et al. (US 2004/0141010 A1). Although the conflicting claims are not identical, they are not patentably distinct from each other because they set forth subject matter, which are obvious over each other and/or only differ in breadth of terminology used. For example, the instant application includes the additional limitations, "detecting the type of selection of the given navigation block" and "performing the software functions being controlled on the basis of the detected type..." in the independent claims. However, the independent claims of '420 include "detecting a selection of a given navigation block indicated by an input device by detecting a drag function on the given navigation block" and "performing software functions ... on the basis of the detected drag function on the given navigation block", which clearly reads on the additional limitations. Furthermore, Fitzmaurice teaches the additional limitations (e.g. in paragraphs 32-33, and 41, and figure 4). Therefore, it would have been obvious to one of ordinary skill in the art to include the additional limitations to the claims of application '420 for the purpose of recognizing which software function to perform and how to perform the software function.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Specification

3. The disclosure is objected to because of the following informalities:

The use of the trademark BLUETOOTH has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

4. Claims 1, 11, 13, 20, and 22 are objected to because of the following informalities: As per claim 1, there is lack of antecedent basis for "the display". As per claims 1, 11, 13, 20, and 22, there is lack of antecedent basis for "the type of the selection of the given navigation block". Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 11, 22 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 11 and 22, the claims recite "...the electronic device comprising: ... provide a floatable navigation area displayed...". The claim should recite components of the electronic device, however, it recites a method step. It is unclear what is

providing the floatable navigation area recited. Therefore the claims are rendered indefinite.

As per claim 12, the claim recites "the control unit", but there are multiple control units recited in the independent claim 11. Since the independent claim does not specify whether the control units are the same or different, claim 12 is rendered indefinite.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 13-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As per claims 13-19, the claims are directed to a graphical user interface comprising an initial application view, a floatable navigation area, and a current application view. Views and areas are arrangements of data and therefore cannot be considered a manufacture (contrary to applicant's remarks), merely descriptive material. Unless combined with functional descriptive material on a computer-readable medium, the graphical user interface claims are directed to nonstatutory nonfunctional descriptive material.

As per claims 20-21, applicant modifies the claims to include the phrase "and stored on a computer-readable medium". However, the claim is still directed to the computer product comprising computer instructions, or in other words, descriptive material. It is suggest that applicant modify the claims to state that the computer

program product comprises a computer-readable medium storing the computer instructions, wherein the computer instructions perform the steps listed in the claims.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-2 and 4-24, and 26-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Fitzmaurice et al. (US 2004/0141010 A1).

As per independent claim 1, Fitzmaurice teaches a **method of navigating in application views of an electronic device, the electronic device** (e.g. in paragraph 57-58 and figures 21-23) **comprising a display for showing application views and an input device** (e.g. in paragraph 57 and figures 21-23), **the method comprising: displaying an initial application view on the display** (e.g. in paragraph 32 and figure 23; *underlying image*); **providing a floatable navigation area displayed at least partly over the application views on the display** (e.g. in paragraph 32, *underlying image*), **the floatable navigation area comprising navigation blocks for controlling given software functions** (e.g. in paragraph 32-34); **detecting a selection of a given navigation block** (e.g. in paragraphs 32 and 33); **detecting the type of the selection**

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of the given navigation block (e.g. in paragraphs 32-33 and 41, and figure 4, see response to arguments below); **performing software functions associated with the selected navigation block once the selection of said navigation block is detected, the performed software functions being controlled on the basis of the detected type of the selection of the given navigation block** (e.g. in paragraphs 32-33 and 41, and figure 4, see response to arguments below); **and displaying a current application view on the basis of the performed software functions** (e.g. in paragraphs 32 and 33).

As per claim 2, the rejection of claim 1 is incorporated and Fitzmaurice further teaches **providing a control block in the floatable navigation area for changing location of the floatable navigation area** (e.g. in paragraphs 40 and 46-47), **and changing the location of the floatable navigation area on the basis of detected control commands from the control block** (e.g. in paragraphs 40 and 46-47).

As per claim 4, the rejection of claim 1 is incorporated and Fitzmaurice further teaches **the step of performing software functions comprising scrolling the initial application view horizontally or vertically to produce a current application view** (e.g. in paragraph 32).

As per claim 5, the rejection of claim 1 is incorporated and Fitzmaurice further teaches **the step of performing software functions comprising zooming in to or out of the initial application view to produce the current application view** (e.g. in paragraph 33).

As per claim 6, the rejection of claim 1 is incorporated and Fitzmaurice further

teaches **displaying the floatable navigation area semi-transparently over an application view** (e.g. in paragraphs 31 and 37).

As per claim 7, the rejection of claim 1 is incorporated and Fitzmaurice further teaches **displaying outlines of the floatable navigation area over the application views** (e.g. in paragraph 31-32).

As per claim 8, the rejection of claim 1 is incorporated and Fitzmaurice further teaches **displaying outlines of the navigation blocks over the application views** (e.g. in paragraphs 31-32).

As per claim 9, the rejection of claim 1 is incorporated and Fitzmaurice further teaches **wherein the electronic device comprises an input device comprising a touch screen** (e.g. in paragraph 31) and **the step of detecting the selection of a given navigation block comprises detecting one or more touches on the given navigation block indicated by the touch screen** (e.g. in paragraphs 32 and 33).

As per claim 10, the rejection of claim 9 is incorporated and Fitzmaurice further teaches **the step of performing the software functions being based on the detected one or more touches on the given navigation block indicated by the touch screen** (e.g. in paragraphs 32 and 33).

As per claim 23, the rejection of claim 1 is incorporated and Fitzmaurice further teaches **wherein the step of detecting a selection of a given navigation block comprises detecting a drag function on the given navigation block and the software functions associated with the selected navigation block are performed**

on the basis of the detected drag function on the given navigation block (e.g. in paragraphs 32-33 and 41, and figure 4).

As per claim 24, the rejection of claim 1 is incorporated and Fitzmaurice further teaches **wherein the type of the selection of the given navigation block is one or more of the following: a continuous selection, selection by dragging, selection by tapping, an instantaneous selection, a directional selection, selection by pressing, a time-dependent selection, selection without moving (e.g. in paragraphs 32-33 and 41, and figure 4).**

Claims 11-12 and 26-27 are device claims corresponding to the method claims 1-2 and 23-24 respectively, and are rejected under the same reasons set forth in connection with the rejection of claims 1-2 and 23-24.

Claims 13-19 are graphical user interface claims corresponding to the method claims 1-2 and 4-8 respectively, and are rejected under the same reasons set forth in connection with the rejection of claims 1-2 and 4-8.

Claims 20-21 are the computer program product claims corresponding to the method claims 1-2 respectively, and are rejected under the same reasons set forth in connection with the rejection of claims 1-2.

Claim 22 is a device claim corresponding to the method claim 1, and is rejected under the same reasons set forth in connection with the rejection of claim 1.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzmaurice et al. (US 2004/0141010 A1) in view of Beaton et al. (US 6,037,937).

As per claim 3, the rejection of claim 1 is incorporated, but Fitzmaurice does not specifically teach **providing the floatable navigation area when the initial application view is opened in the display**. However, Beaton teaches providing a floatable navigation area when an initial application view is opened in a display (e.g. in column 2 lines 24-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Fitzmaurice with the method of Beaton for the purpose of indicating to the user that the navigation area is used to navigate the application view.

13. Claims 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzmaurice et al. (US 2004/0141010 A1) in view of Freeman (US 5,289,168).

As per claim 25, the rejection of claim 24 is incorporated, but Fitzmaurice does not specifically teach **wherein the performed software functions are controlled on the basis of at least one of: amount of time of the selection, amount of pressure of the selection**. However, it was well known in the art to have performed software

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functions controlled on the basis of at least one of: amount of time of the selection, amount of pressure of the selection, as shown by Freeman (in column 5 lines 44-52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Fitzmaurice to include the teachings of Freeman for the purpose of allowing the user to control the functions without moving the input device.

As per claim 28, the rejection of claim 11 is incorporated, but Fitzmaurice does not specifically teach **wherein the performed software functions are controlled on the basis of at least one of: amount of time of the selection, amount of pressure of the selection**. However, it was well known in the art to have performed software functions controlled on the basis of at least one of: amount of time of the selection, amount of pressure of the selection, as shown by Freeman (in column 5 lines 44-52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Fitzmaurice to include the teachings of Freeman for the purpose of allowing the user to control the functions without moving the input device.

Response to Arguments

14. Applicant's arguments filed July 16, 2007 have been fully considered but they are not persuasive.

In regards to the specification objection with respect to trademarks and the 35 U.S.C. 101 rejections, see the corresponding sections above.

In regards to the double patenting rejections, according to MPEP 804 I(B) as cited by applicant, "the "provisional" double patenting rejection should continue to be

made by the examiner in each application as long as there are conflicting claims in more than one application unless that "provisional" double patenting rejection is the only rejection remaining in at least one of the applications". Since the claims are not currently in condition for allowance, examiner continues to make provisional double patenting rejections for the amended claims. However, examiner acknowledges that if a provisional obviousness-type double patenting rejection is the only rejection remaining in the earlier-filed application, that the rejection be withdrawn and the earlier-filed application be permitted to issue.

In regards to the claim rejections, applicant argues, in substance, that Fitzmaurice allegedly does not teach or suggest detecting a type of a selection of a given navigational block and performing the software functions based on the detected type. Reasons for this allegation that are given include "Fitzmaurice's type of selection is always the same" and "based merely on the region activated". However, examiner respectfully disagrees.

It is noted that those features included in the reasoning are not precluded in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Fitzmaurice teaches detecting a type of a selection of a given navigational block and performing the software functions based on the detected type. For example, in order to perform the appropriate software functions, detection of whether a selection of a given navigational block is for *zooming or panning and how much to zoom or pan* is

made and accordingly the software functions are controlled (e.g. in paragraphs 32-33), which reads on "detecting *the type* of the selection of the given navigation block" and "the performed functions being controlled on the basis of the detected type...". In claim 24, the phrase "the type of the selection of the given navigation block" is limited to "one or more of the following: a continuous selection, selection by dragging, ...". Fitzmaurice teaches at least selection by dragging. For example, figure 4 and paragraph 41 show that after a pen down action on a given navigation block, the state machine waits for a detection of dragging in state 2 to perform the associated actions with the block, which reads on "selection by dragging". As such, the rejections of the claims stand.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Wong whose telephone number is 571-270-1399. The examiner can normally be reached on M-F 7:30-5:00 EST with every other Friday 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William Wong/


STEPHEN HONG
PATENT EXAMINER